

House Bill 1108

By: Representatives Williams of the 89th, Smith of the 113th, Holt of the 112th, Ashe of the 56th, Hugley of the 133rd, and others

A BILL TO BE ENTITLED
AN ACT

To amend Parts 5 and 7 of Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to arrest and detention and delinquent and unruly children, respectively, so as to change provisions relating to the zero tolerance policy on weapons in schools; to prohibit pre-hearing detentions via a standing order of the court; to change provisions relating to the designated felony act; to amend Code Section 16-11-127.1 of the Official Code of Georgia Annotated, relating to carrying weapons within school safety zones, at school functions, or on school property, so as to change a provision relating to handling cases involving children; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 5 of Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to arrest and detention, is amended by adding a new Code section to read as follows:

"15-11-46.2.
Notwithstanding the provisions of Code Section 15-11-45, 15-11-46, or 15-11-46.1, a child
may not be detained or placed in shelter care prior to the hearing on the petition by virtue
of a standing court order."

SECTION 2.

Part 7 of Article 1 of Chapter 11 of Title 15 of the Official Code of Georgia Annotated, relating to delinquent and unruly children, is amended by revising paragraph (2) of subsection (a) of Code Section 15-11-63, relating to designated felony acts, as follows:

"(2) 'Designated felony act' means an act which:

(A) Constitutes a second or subsequent offense under subsection (b) of Code Section 16-11-132 if committed by a child 13 to 17 years of age;

(B) If done by an adult, would be one or more of the following crimes:

- (i) Kidnapping or arson in the first degree, if done by a child 13 or more years of age;
- (ii) Aggravated assault, arson in the second degree, aggravated battery, robbery, armed robbery not involving a firearm, or battery in violation of Code Section 16-5-23.1 if the victim is a teacher or other school personnel, if done by a child 13 or more years of age;
- (iii) Attempted murder or attempted kidnapping, if done by a child 13 or more years of age;
- (iv) ~~The carrying or possession of a weapon in violation of subsection (b) of Code Section 16-11-127.1~~ Reserved;
- (v) Hijacking a motor vehicle, if done by a child 13 or more years of age;
- (vi) Any violation of Code Section 16-7-82, 16-7-84, or 16-7-86 if done by a child 13 or more years of age;
- (vii) Any other act which, if done by an adult, would be a felony, if the child committing the act has three times previously been adjudicated delinquent for acts which, if done by an adult, would have been felonies;
- (viii) Any violation of Code Section 16-13-31, relating to trafficking in cocaine, illegal drugs, marijuana, or methamphetamine;
- (ix) Any criminal violation of Code Section 16-14-4, relating to racketeering; or
- (x) Any violation of Code Section 16-10-52, relating to escape, if the child involved in the commission of such act has been previously adjudicated to have committed a designated felony;
- (C) Constitutes a second or subsequent adjudication of delinquency based upon a violation of Code Section 16-7-85 or 16-7-87;
- (C.1) Constitutes any violation of Code Section 16-15-4, relating to criminal street gangs;
- (C.2) Constitutes a second or subsequent adjudication of delinquency based on a violation of Code Section 16-11-127.1 or is a first violation of Code Section 16-11-127.1 involving:
- (i) Any weapon together with an assault;
- (ii) A firearm as defined in paragraph (2) of subsection (a) of Code Section 16-11-131; or
- (iii) A dangerous weapon or machine gun as defined in Code Section 16-11-121;
- (D) Constitutes an offense within the exclusive jurisdiction of the superior court pursuant to subparagraph (b)(2)(A) of Code Section 15-11-28 which is transferred by the superior court to the juvenile court for adjudication pursuant to subparagraph (b)(2)(B) of Code Section 15-11-28 or which is transferred by the district attorney to

the juvenile court for adjudication pursuant to subparagraph (b)(2)(C) of Code Section 15-11-28; or

(E) Constitutes a second or subsequent violation of Code Sections 16-8-2 through 16-8-9, relating to theft, if the property which was the subject of the theft was a motor vehicle."

SECTION 3.

Code Section 16-11-127.1 of the Official Code of Georgia Annotated, relating to carrying weapons within school safety zones, at school functions, or on school property, is amended by revising subsection (b) as follows:

"(b) Except as otherwise provided in subsection (c) of this Code section, it shall be unlawful for any person to carry to or to possess or have under such person's control while within a school safety zone or at a school building, school function, or school property or on a bus or other transportation furnished by the school any weapon or explosive compound, other than fireworks the possession of which is regulated by Chapter 10 of Title 25. Any person who violates this subsection shall be guilty of a felony and, upon conviction thereof, be punished by a fine of not more than \$10,000.00, by imprisonment for not less than two nor more than ten years, or both; provided, however, that upon conviction of a violation of this subsection involving a firearm as defined in paragraph (2) of subsection (a) of Code Section 16-11-131, or a dangerous weapon or machine gun as defined in Code Section 16-11-121, such person shall be punished by a fine of not more than \$10,000.00 or by imprisonment for a period of not less than five nor more than ten years, or both. A child who violates this subsection ~~shall~~ may be subject to the provisions of Code Section 15-11-63."

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.